



General Assembly

January Session, 2009

Substitute Bill No. 6416

* ____HB06416HS____031109____*

AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-239 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) The rate to be paid by the state to hospitals receiving
4 appropriations granted by the General Assembly and to freestanding
5 chronic disease hospitals, providing services to persons aided or cared
6 for by the state for routine services furnished to state patients, shall be
7 based upon reasonable cost to such hospital, or the charge to the
8 general public for ward services or the lowest charge for semiprivate
9 services if the hospital has no ward facilities, imposed by such
10 hospital, whichever is lowest, except to the extent [, if any,] that the
11 commissioner determines a hospital to be a disproportionate share
12 hospital, in accordance with subsection (b) of this section, and that a
13 greater amount is appropriate. [in the case of hospitals serving a
14 disproportionate share of indigent patients.] Such rate shall be
15 promulgated annually by the Commissioner of Social Services.
16 Nothing contained in this section shall authorize a payment by the
17 state for such services to any such hospital in excess of the charges
18 made by such hospital for comparable services to the general public.
19 Notwithstanding the provisions of this section, for the rate period

20 beginning July 1, 2000, rates paid to freestanding chronic disease
21 hospitals and freestanding psychiatric hospitals shall be increased by
22 three per cent. For the rate period beginning July 1, 2001, a
23 freestanding chronic disease hospital or freestanding psychiatric
24 hospital shall receive a rate that is two and one-half per cent more than
25 the rate it received in the prior fiscal year and such rate shall remain
26 effective until December 31, 2002. Effective January 1, 2003, a
27 freestanding chronic disease hospital or freestanding psychiatric
28 hospital shall receive a rate that is two per cent more than the rate it
29 received in the prior fiscal year. Notwithstanding the provisions of this
30 subsection, for the period commencing July 1, 2001, and ending June
31 30, 2003, the commissioner may pay an additional total of no more
32 than three hundred thousand dollars annually for services provided to
33 long-term ventilator patients. For purposes of this subsection, "long-
34 term ventilator patient" means any patient at a freestanding chronic
35 disease hospital on a ventilator for a total of sixty days or more in any
36 consecutive twelve-month period. Effective July 1, 2007, each
37 freestanding chronic disease hospital shall receive a rate that is four
38 per cent more than the rate it received in the prior fiscal year.

39 (b) In determining the rate paid by the state to a hospital, the
40 commissioner shall consider whether the hospital is a disproportionate
41 share hospital. For purposes of this section, "disproportionate share
42 hospital" means a hospital that has (1) a Medicaid inpatient utilization
43 rate of at least the mean Medicaid inpatient utilization rate for
44 hospitals receiving Medicaid payments in the state; or (2) a low-income
45 utilization rate exceeding twenty-five per cent. The terms "Medicaid
46 inpatient utilization rate" and "low-income utilization rate" have the
47 same meanings as such terms in Section 1923 of Title XIX of the federal
48 Social Security Act, 42 USC 1396r-4, as amended from time to time. The
49 commissioner shall establish a rate for such a hospital that
50 appropriately reflects its status as a disproportionate share hospital.

51 (c) Not later than January 1, 2010, the commissioner shall review
52 and adjust the rates of all disproportionate share hospitals, as the
53 commissioner deems appropriate.

54 [(b)] (d) Effective October 1, 1991, the rate to be paid by the state for
55 the cost of special services rendered by such hospitals shall be
56 established annually by the commissioner for each such hospital based
57 on the reasonable cost to each hospital of such services furnished to
58 state patients. Nothing contained herein shall authorize a payment by
59 the state for such services to any such hospital in excess of the charges
60 made by such hospital for comparable services to the general public.

61 [(c)] (e) The term "reasonable cost" as used in this section means the
62 cost of care furnished such patients by an efficient and economically
63 operated facility, computed in accordance with accepted principles of
64 hospital cost reimbursement. The commissioner may adjust the rate of
65 payment established under the provisions of this section for the year
66 during which services are furnished to reflect fluctuations in hospital
67 costs. Such adjustment may be made prospectively to cover anticipated
68 fluctuations or may be made retroactive to any date subsequent to the
69 date of the initial rate determination for such year or in such other
70 manner as may be determined by the commissioner. In determining
71 "reasonable cost" the commissioner may give due consideration to
72 allowances for fully or partially unpaid bills, reasonable costs
73 mandated by collective bargaining agreements with certified collective
74 bargaining agents or other agreements between the employer and
75 employees, provided "employees" shall not include persons employed
76 as managers or chief administrators, requirements for working capital
77 and cost of development of new services, including additions to and
78 replacement of facilities and equipment. The commissioner shall not
79 give consideration to amounts paid by the facilities to employees as
80 salary, or to attorneys or consultants as fees, where the responsibility
81 of the employees, attorneys or consultants is to persuade or seek to
82 persuade the other employees of the facility to support or oppose
83 unionization. Nothing in this subsection shall prohibit the
84 commissioner from considering amounts paid for legal counsel related
85 to the negotiation of collective bargaining agreements, the settlement
86 of grievances or normal administration of labor relations.

87 [(d)] (f) The state shall also pay to such hospitals for each outpatient

88 clinic and emergency room visit a reasonable rate to be established
89 annually by the commissioner for each hospital, such rate to be
90 determined by the reasonable cost of such services. The emergency
91 room visit rates in effect June 30, 1991, shall remain in effect through
92 June 30, 1993, except those which would have been decreased effective
93 July 1, 1991, or July 1, 1992, shall be decreased. Nothing contained
94 herein shall authorize a payment by the state for such services to any
95 hospital in excess of the charges made by such hospital for comparable
96 services to the general public. For those outpatient hospital services
97 paid on the basis of a ratio of cost to charges, the ratios in effect June
98 30, 1991, shall be reduced effective July 1, 1991, by the most recent
99 annual increase in the consumer price index for medical care. For those
100 outpatient hospital services paid on the basis of a ratio of cost to
101 charges, the ratios computed to be effective July 1, 1994, shall be
102 reduced by the most recent annual increase in the consumer price
103 index for medical care. The emergency room visit rates in effect June
104 30, 1994, shall remain in effect through December 31, 1994. The
105 Commissioner of Social Services shall establish a fee schedule for
106 outpatient hospital services to be effective on and after January 1, 1995.
107 Except with respect to the rate periods beginning July 1, 1999, and July
108 1, 2000, such fee schedule shall be adjusted annually beginning July 1,
109 1996, to reflect necessary increases in the cost of services.
110 Notwithstanding the provisions of this subsection, the fee schedule for
111 the rate period beginning July 1, 2000, shall be increased by ten and
112 one-half per cent, effective June 1, 2001. Notwithstanding the
113 provisions of this subsection, outpatient rates in effect as of June 30,
114 2003, shall remain in effect through June 30, 2005. Effective July 1, 2006,
115 subject to available appropriations, the commissioner shall increase
116 outpatient service fees for services that may include clinic, emergency
117 room, magnetic resonance imaging, and computerized axial
118 tomography. Not later than October 1, 2006, the commissioner shall
119 submit a report, in accordance with section 11-4a, to the joint standing
120 committees of the General Assembly having cognizance of matters
121 relating to public health, human services and appropriations and the
122 budgets of state agencies, identifying such fee increases and the

123 associated cost increase estimates.

124 [(e)] (g) The commissioner shall adopt regulations, in accordance
125 with the provisions of chapter 54, establishing criteria for defining
126 emergency and nonemergency visits to hospital emergency rooms. All
127 nonemergency visits to hospital emergency rooms shall be paid at the
128 hospital's outpatient clinic services rate. Nothing contained in this
129 subsection or the regulations adopted hereunder shall authorize a
130 payment by the state for such services to any hospital in excess of the
131 charges made by such hospital for comparable services to the general
132 public.

133 [(f)] (h) On and after October 1, 1984, the state shall pay to an acute
134 care general hospital for the inpatient care of a patient who no longer
135 requires acute care a rate determined by the following schedule: For
136 the first seven days following certification that the patient no longer
137 requires acute care the state shall pay the hospital at a rate of fifty per
138 cent of the hospital's actual cost; for the second seven-day period
139 following certification that the patient no longer requires acute care the
140 state shall pay seventy-five per cent of the hospital's actual cost; for the
141 third seven-day period following certification that the patient no
142 longer requires acute care and for any period of time thereafter, the
143 state shall pay the hospital at a rate of one hundred per cent of the
144 hospital's actual cost. On and after July 1, 1995, no payment shall be
145 made by the state to an acute care general hospital for the inpatient
146 care of a patient who no longer requires acute care and is eligible for
147 Medicare unless the hospital does not obtain reimbursement from
148 Medicare for that stay.

149 [(g)] (i) Effective June 1, 2001, the commissioner shall establish
150 inpatient hospital rates in accordance with the method specified in
151 regulations adopted pursuant to this section and applied for the rate
152 period beginning October 1, 2000, except that the commissioner shall
153 update each hospital's target amount per discharge to the actual
154 allowable cost per discharge based upon the 1999 cost report filing
155 multiplied by sixty-two and one-half per cent if such amount is higher

156 than the target amount per discharge for the rate period beginning
157 October 1, 2000, as adjusted for the ten per cent incentive identified in
158 Section 4005 of Public Law 101-508. If a hospital's rate is increased
159 pursuant to this subsection, the hospital shall not receive the ten per
160 cent incentive identified in Section 4005 of Public Law 101-508. For rate
161 periods beginning October 1, 2001, through September 30, 2006, the
162 commissioner shall not apply an annual adjustment factor to the target
163 amount per discharge. Effective April 1, 2005, the revised target
164 amount per discharge for each hospital with a target amount per
165 discharge less than three thousand seven hundred fifty dollars shall be
166 three thousand seven hundred fifty dollars. Effective October 1, 2007,
167 the commissioner, in consultation with the Secretary of the Office of
168 Policy and Management, shall establish, within available
169 appropriations, an increased target amount per discharge of not less
170 than four thousand two hundred fifty dollars for each hospital with a
171 target amount per discharge less than four thousand two hundred fifty
172 dollars for the rate period ending September 30, 2007, and the
173 commissioner may apply an annual adjustment factor to the target
174 amount per discharge for hospitals that are not increased as a result of
175 this adjustment. Not later than October 1, 2008, the commissioner shall
176 submit a report to the joint standing committees of the General
177 Assembly having cognizance of matters relating to public health,
178 human services and appropriations and the budgets of state agencies
179 identifying any increased target amount per discharge established or
180 annual adjustment factor applied on or after October 1, 2006, and the
181 associated cost increase estimates related to such actions.

182 Sec. 2. Subsection (b) of section 17b-263 of the general statutes is
183 repealed and the following is substituted in lieu thereof (*Effective July*
184 *1, 2009*):

185 (b) The rate paid for hospital outpatient mental health therapy
186 services, except for partial hospitalization and other comprehensive
187 services as defined by the commissioner, shall be that established in
188 subsection [(d)] (f) of section 17b-239, as amended by this act, for an
189 outpatient clinic visit. Payment for partial hospitalization services shall

190 be considered payment in full for all outpatient mental health services.

191 Sec. 3. Section 19a-617c of the general statutes is repealed and the
192 following is substituted in lieu thereof (*Effective July 1, 2009*):

193 Payments made to hospitals pursuant to subsection [(g)] (i) of
194 section 17b-239, as amended by this act, shall include any inpatient
195 service days provided in a new long-term acute care hospital or
196 satellite facility established as a demonstration project pursuant to
197 section 19a-617b. For the purposes of rate setting and cost per
198 discharge settlement pursuant to said subsection [(g)] (i), the inpatient
199 stay of a patient eligible for medical assistance shall include both short-
200 term and long-term acute care hospital days provided in a new long-
201 term acute care hospital or satellite facility established as a
202 demonstration project pursuant to section 19a-617b. Notwithstanding
203 any provision of the general statutes, a short-term acute care hospital
204 may enter into an agreement with a chronic disease hospital that
205 establishes a new long-term acute care hospital or satellite facility as a
206 demonstration project pursuant to section 19a-617b, to distribute
207 payments received under section 17b-239, as amended by this act, for
208 services provided by such long-term acute care hospital or satellite
209 facility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	17b-239
Sec. 2	<i>July 1, 2009</i>	17b-263(b)
Sec. 3	<i>July 1, 2009</i>	19a-617c

Statement of Legislative Commissioners:

In sections 2 and 3, the phrase "as amended by this act" was added after the references to section 17b-239 for accuracy. In section 2, the reference to subsection (e) was changed to subsection (f) and in section 3, the two references to subsection (h) were changed to subsection (i) for accuracy.

HS *Joint Favorable Subst.-LCO*